



COUNTY OF LOS ANGELES

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March 25, 2003

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

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The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Violet Varona-Lukens
VIOLET VARONA-LUKENS
EXECUTIVE OFFICER

Dear Supervisors:

**APPROVAL OF THE
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)
INTERDEPARTMENTAL MEMORANDUMS OF UNDERSTANDING (MOU) FOR
LOS ANGELES COUNTY AS A COVERED HYBRID ENTITY
(3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Formally establish an Interdepartmental Memorandum of Understanding (MOU) process and related Administrative Dispute Resolution Process (ADRP) for certain County Departments, to permit them to receive and use "Protected Health Information" (PHI) from the covered health care components of the County, and to comply with the requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and its implementing regulations.
2. Approve the MOU language (substantially similar to Attachment A) for all affected Departments that require the disclosure of PHI, for non-treatment purposes, for continuation of their operations, and direct the affected Departments to enter into the MOU and to comply with its terms.
3. Adopt and establish the ADRP (Attachment 1 of the MOU) to provide for the resolution of disputes between departments and the enforcement of the MOUs, as required by HIPAA.

4. Delegate authority to the Departmental Directors to prepare, sign and execute the MOUs, substantially similar to the format of Attachment A.
5. Delegate authority to the Departmental Directors, subject to prior advice and consent of County Counsel and Chief Information Privacy Officer (CIPO), to make all necessary alterations and adjustments to the MOUs to bring them into compliance with changes in HIPAA laws and regulations.

PURPOSE OF RECOMMENDED ACTION

Your Board has already undertaken significant steps to establish the administrative framework for HIPAA compliance, most recently by the adoption of a Board Letter on January 7, 2003, designating the County as a "hybrid entity" under HIPAA. As a result of this action, the Department of Health Services (DHS), the Department of Mental Health (DMH), and the Kirby Center Program of the Probation Department have been designated as the covered components of the County. As such, they are allowed to disclose PHI only in accordance with the HIPAA Privacy Rule.

With respect to certain departments, the covered components are permitted to use and disclose PHI as "required by law," for treatment or related purposes to certain departments without the need of a formal MOU. However, for departments that require PHI to carry out other functions, on the behalf of the covered components, no such express provisions exist. In such cases, HIPAA allows the disclosure of PHI only if there is a "legally enforceable" MOU between the departments. This Board Letter establishes the legally required MOU process.

JUSTIFICATION

HIPAA is a federal regulation. The law includes provisions to protect the privacy of consumers by adopting strict privacy rules for health information. The deadline for the HIPAA Privacy provisions for the Interdepartmental MOUs is April 14, 2003. The Board approval of the proposed HIPAA language will ensure that affected Departments are aware of their specific obligations to comply with HIPAA and that they will be held responsible for their failure to comply with Interdepartmental MOU provisions. Attachment 1 will establish a dispute resolution process for this purpose. There are four levels for the resolution of interdepartmental disputes:

1. The first level being an interdepartmental resolution process between the respective Department Heads;
2. If a dispute is not resolved at that level, it would be forwarded to the Chief Information Privacy Officer for resolution.
3. If it is not resolved at the satisfaction of the departments and the Chief Information Privacy Officer, the matter would be submitted to the CAO for resolution. If the CAO is an involved party, County Counsel would facilitate the resolution process.
4. If neither the CAO nor County Counsel are able to satisfactorily resolve the dispute, the issue would be submitted to your Board for final determination.

FISCAL IMPACT/FINANCING

The proposed recommendations do not have a direct material cost for the County. However, HIPAA's cost implications to implement the required administration, training, security and information systems enhancement will be substantial for each affected covered Department. The financial impact on the affected non-covered departments is expected to be minimal.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

HIPAA is a federal law that requires County conformance to certain rules in the areas of privacy, security and electronic data interchange (EDI). Failure to comply would leave the County open to federal sanctions for non-compliance and potentially unable to provide health care related services or to submit health care related claims for reimbursement. In particular, HIPAA requires Interdepartmental MOU language when PHI disclosure to other departments is required for business purposes, which are not treatment related and where the non-covered departments are required to act on behalf of the covered Departments.

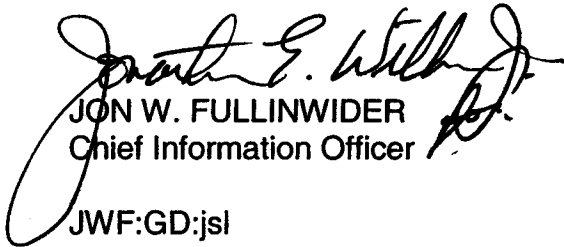
CONCLUSION

By approving the recommended Interdepartmental MOUs and by authorizing the affected Departments to sign and execute these agreements, the County will achieve another critical milestone towards HIPAA compliance. Additionally, the administrative

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procedures will also provide guidance and procedures for managing HIPAA-related health privacy issues between the County's covered and non-covered departments.

Respectfully submitted,


JON W. FULLINWIDER
Chief Information Officer
JWF:GD:jsl

Attachments (2)

c: Executive Officer, Board of Supervisors
County Counsel
Information Systems Commission
Department of Health Services
Department of Mental Health
Dorothy Kirby Center of the Department of Probation
Probation Department
Chief Administrative Office

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